

IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

In the matter of an Appeal under and in terms of Section 5C of the High Court of the Provinces (Special Provisions) (Amendment) Act No. 54 of 2006 to be read with Article 128 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

SC Appeal No:
73/2025

Ven. Madakumbure Sudassana Thero,
Sri Bodhirajaramaya,
Madakumbura,

SC HCCA LA:
375/2021

Karandeniya.
PLAINTIFF

SP/HCCA/GA No:
58/2017(F)

Vs.

DC Balapitiya Case No:
3085/L

1. Ven. Kosgoda Mahinda Thero,
Siriwijaya Bodhirajaramaya,
Bogahapitiya,
Ahungalla.

2. Ven. Galpothukande Devinda Thero,
Sri Pathirajaramaya,
Pathiraja Pedesa,
Uragasmanhandiya.

DEFENDANTS

AND

Ven. Madakumbure Sudassana Thero,
Sri Bodhirajaramaya,
Madakumbura,
Karandeniya.

PLAINTIFF-APPELLANT

Vs.

1. Ven. Kosgoda Mahinda Thero,
Siriwijaya Bodhirajaramaya,
Bogahapitiya,
Ahungalla.

2. Ven. Galpothukande Devinda Thero,
Sri Pathirajaramaya,
Pathiraja Pedesa,
Uragasmanhandiya.

DEFENDANT-RESPONDENTS

AND NOW BETWEEN

2. Ven. Galpothukande Devinda Thero,
Sri Pathirajaramaya,
Pathiraja Pedesa,
Uragasmanhandiya.

**2nd DEFENDANT-RESPONDENT-
APPELLANT**

Vs.

Ven. Madakumbure Sudassana Thero,
Sri Bodhirajaramaya,
Madakumbura,
Karandeniya.

**PLAINTIFF-APPELLANT-
RESPONDENT**

Ven. Kosgoda Mahinda Thero,
(Deceased)
Siriwijaya Bodhirajaramaya,
Bogahapitiya,
Ahungalla.

**1st DEFENDANT-RESPONDENT-
RESPONDENT**

- Before** : Mahinda Samayawardhena, J.
: Arjuna Obeyesekere, J.
: Sampath B. Abayakoon, J.
- Counsel** : Kuvera De Zoysa, P.C. with Ms. Harshala Yapa
instructed by M. J. S. Fonseka for the 2nd
Defendant- Respondent-Appellant.
: Dr. Wijayadasa Rajapakshe P.C. with Suraj
Walgama and Rasika Dissanayake instructed by
Jayamuditha Jayasooriya for the Plaintiff-
Appellant-Respondent.
- Argument on** : 26-11-2025
- Written Submissions** : 19-12-2025 and 14-10-2025 (By the 2nd
Defendant-Respondent-Appellant)

: 18-12-2025 (By the Plaintiff-Appellant-
Respondent)

Decided on : 07-05-2026

Sampath B. Abayakoon, J.

The 2nd defendant-respondent-appellant (hereinafter referred to as the 2nd defendant) preferred this appeal on being aggrieved of the judgment dated 02-11-2021 pronounced by the Provincial High Court of the Southern Province holden in Galle while exercising its civil appellate jurisdiction.

The plaintiff of this action before the District Court and the two defendants named therein are Buddhist priests. The dispute between the parties before the District Court has been in relation to the Viharadhipathiship of the Buddhist Temple morefully described in the plaint.

There is no dispute as to the fact that the 1st defendant priest mentioned in the plaint has passed away during the pendency of the action and there was no necessity to effect a substitution in that regard.

When this matter was supported for Leave to Appeal on 07-05-2025, this Court granted leave on the following specific questions of law.

1. Is the founding Viharadhipathi entitled in law to nominate the plaintiff-appellant-respondent as the next Viharadhipathi although the plaintiff-appellant-respondent is not a pupil of the founding Viharadhipathi?
2. Has the Civil Appellate High Court erred in law by failing to appreciate that in the event the pupillary line fails, the temple vests in the Mahasanga of the fraternity to which the temple is affiliated?

It needs to be noted that when this matter was supported for leave, the learned President's Counsel who represented the 2nd defendant submitted that he is no longer seeking a judgment in his favour for a deceleration of Viharadhipathiship of the temple in issue.

Hence, this appeal will be considered under the said context and the questions of law allowed by this Court, having in mind that the 2nd defendant

is only praying for the dismissal of the action instituted by the plaintiff-appellant-respondent (hereinafter referred to as the plaintiff) before the District Court.

Accordingly, it is my view that considering the counter claim by the 2nd defendant for a declaration in his favour would no longer be necessary to consider in this appeal.

The Pleadings-

The plaintiff instituted this action before the District Court of Balapitiya praying for a judgment to the effect that he should be declared the controlling Viharadhipathi of Sri Pathirajarama Temple morefully described in the second paragraph of his plaint dated 25-09-2005 for the reasons set out in his pleadings. In addition to the above relief, the plaintiff sought the ejection of the 1st and the 2nd defendants named in the plaint and anyone claiming under them from the said temple and the temple land, for damages, and other reliefs deemed fit by the Court.

The position taken up by the 1st and 2nd defendants of the action who filed separate but similar answers had been that, for the matters stated in their averments it should be the 1st defendant who should be declared the Viharadhipathi, and if the judgment is against the 1st defendant, it is the 2nd defendant who should be declared the Viharadhipathi being the senior most student of Sumanaransi Thero who became the Viharadhipathi of the temple after the demise of the founder Viharadhipathi of the temple namely, Madakumbure Sri Suseema Thero.

The Trial-

The case has proceeded to trial with three admissions. The 1st to 26th issue has been raised by the plaintiff, while the 27th to 31st issue was by the defendants.

The learned District Judge of Balapitiya pronouncing his judgment dated 25-07-2017 has crystallized the factual matters where there are no variance or

dispute between the parties although there had been no initial admissions in the case.

Having considered the relevant disputed facts and the circumstances, the relevant law in that regard, and the claim between the parties in relation to the Viharadhipathiship of the relevant temple, it has been the determination of the learned District Judge that the document marked P-08 under which the plaintiff priest has claimed Viharadhipathiship can be considered as a document written by the founder Viharadhipathi of the temple namely, Madakumbure Suseema Thero.

Having considered the contention that after the demise of the said founder Viharadhipathi it should be the plaintiff who became the Viharadhipathi, it was his view that Madakumbure Suseema Thero had as his pupil Sumanaransi Thero at the time of writing the document marked P-08, and although the Viharadhipathi of a temple can appoint a junior pupil over a senior pupil as the succeeding Viharadhipathi, the founder Viharadhipathi cannot appoint a priest who is not a pupil of his own without the consent of the pupils of the said Viharadhipathi.

It was on that basis the learned District Judge has decided to dismiss the plaint. Having considered the counter claim by the defendants, it has been the determination of the learned District Judge that the evidence adduced before the Court, when considered on a balance of probability, has established that it should be the 2nd defendant priest who is entitled to be declared as Viharadhipathi of the questioned temple.

The Appeal before the High Court-

However, when the judgment of the learned District Judge was challenged before the Provincial High Court of the Southern Province holden in Galle, the learned Judges of the High Court, pronouncing their judgment on 02-11-2021 has taken a totally contrasting view to that of the learned District Judge.

It has been determined that the document marked P-08 should prevail over the claim of the 2nd defendant, that he should be declared the Viharadhipathi as a pupil of Sumanaransi Thero who was the succeeding Viharadhipathi of

the founder Viharadhipathi of the temple namely, Suseema Thero. The High Court has determined that as admitted by all parties the earlier mentioned Sumanaransi Thero has abandoned the subjected temple and disrobed, and hence, 1st and 2nd defendants are not entitled in law to make any claim to the Viharadhipathiship or Chief incumbency to the said temple on the basis that the 2nd defendant is a pupil of the earlier mentioned Sumanaransi Thero.

It has been determined that when Sumanaransi Thero abandoned the temple and disrobed, the founder Viharadhipathi namely, Madakumbure Suseema Thero has nominated the plaintiff who is a pupil of his brother priest Madakumbure Sudassi Thero as the Viharadhipathi by the letter marked P-08, and therefore the learned District Judge was wrong in deciding that the plaintiff is not the rightful Viharadhipathi of the said temple (at page 13, 1st paragraph of the High Court judgment-page 855 of the Appeal Brief).

The said determination read as follows;

“As already explained aforesaid when Ven. Sumanaransi Thero has abandoned the subjected temple. Hence, the 1st and 2nd defendant are not entitled in law to make any claim as Viharadhipathi or chief incumbent to the subjected temple on the basis that the 2nd defendant is a pupil of Ven. Sumanaransi Thero. Since the 1st defendant made his claim through the 2nd defendant, 1st defendant is also not entitled to be nominated as Viharadhipathi of the subjected temple. In such circumstances when only pupil of Ven. Makumbure Susima Thero has abandoned the temple as the founder and the chief incumbent of the subjected temple Ven. Makumbure Susima the rightly nominated Plaintiff who is the pupil of the brother priest namely Madakumbure Sudassi Thero as Viharadhipathi of the subjected temple by letter marked P-08. Accordingly, we are of the view that the learned Additional District Judge has failed to decide that the plaintiff priest is the Viharadhipathi of the subjected temple.

When evidence show that the Ven. Pathirajapedese Sumanaransi Thero had abandoned the temple and his conduct in such a nature that

conducive to an abandonment, obtaining his sanction to nominate some other suitable priest by the founder of the subjected temple to the post of Viharadhipathiship is erred in law, since once Ven. Sumanaransi has abandoned the subjected temple, he loses all his entitlement to take any decisions regarding the subjected temple, he loses all his entitlement to take any decisions regarding the subjected temple. Hence, we are of the view that the decision of the learned District Judge that the sanction of Ven. Sumanaransi should have been obtained when the plaintiff had been nominated by P-08 as Viharadhipathi of the subjected temple is erred in law.”

It needs to be noted that as correctly determined by the learned District Judge and also agreed by the Civil Appellate High Court several crucial facts in relation to the dispute between the parties were not disputed facts during the trial.

I find it relevant to highlight the following undisputed facts which are relevant for the determination of this appeal which in my view would provide clarity to this judgment.

- a. The fact that Madakumbure Suseema Thero was the founder of the temple in question and the founder Viharadhipathi of the same.
- b. The aforesaid Madakumbure Suseema Thero had only one *pupil* namely, Pathirajapedese Sumanaransi Thero.
- c. After the demise of the founder Viharadhipathi, the said Sumanaransi Thero was appointed as the Viharadhipathi and it is he who had overall control of the questioned temple until he abandoned the temple and disrobed.
- d. The mentioned Madakumbure Suseema Thero had a brother priest namely, Madakumbure Sudassi Thero, and the plaintiff is a pupil of the said Sudassi Thero.
- e. The fact that Ven. Suseema Thero passed away on 11-04-1989.
- f. The fact that Viharadhipathiship of the disputed temple should be determined based on the sisyanusisya paramparawa rule which means “pupillary succession” or “succession from pupil to pupil”.

Although the letter marked P-08 was a contested document, I find that the learned District Judge as well as the learned Judges of the High Court has correctly determined that the letter P-08 was a document authored by the Madakumbure Suseema Thero.

However, it needs to be noted that the High Court has erred in determining that the said letter was a letter written by the founder Viharadhipathi of the temple after his pupil Sumanaransi Thero disrobed or abandoned the sasana.

As I have earlier stated in this judgement, in fact there had been no dispute during the trial that Ven. Suseema Thero has passed away on 11-04-1989. The evidence clearly establishes the fact that his pupil namely, Sumanaransi Thero had been the Viharadhikari at the time of passing away of Suseema Thero, and eight months after his passing away, the said Sumanaransi Thero has been appointed as the Viharadhipathi of the temple.

The letter marked P-08 is a letter dated 29-05-1988. Therefore, it is clear that the learned Judges of the High Court were misdirected in determining that the said letter was written after Sumanaransi Thero abandoned the temple and disrobed, where in fact the letter has been written while Sumanaransi Thero has been the Viharadhikari of the temple as the only pupil of Suseema Thero.

Consideration of the Grounds of Appeal-

Having considered the judgment of the learned District Judge and the appellate judgment of the learned Judges of the Civil Appellate High Court, I find that both Courts have considered the judgment pronounced in the case of **Gunananda Unnanse Vs. Dewarakkita Unnanse 26 NLR 257** in the respective determinations.

The learned President's Counsel who represented the plaintiff as well as the 2nd defendant also relied on the same judgment which overruled **Siriniwasa Vs. Sarananda (1921) 22 NLR 318** to advance their arguments at the hearing of this appeal.

In the said judgment Bertram C.J., while considering several authorities on the question of succession to incumbency under sisya paramparawa rule laid down the following,

“Where a Vihare with lands attached is vested in a priest as the “Original Proprietor” he may take any of the following courses -

- 1. If he has pupils (say five pupils) he may make an absolute gift to one of them. In that case the Vihare with its lands devolves absolutely on that pupil. This pupil may make a similar donation to a pupil of his own. When this goes on uninterruptedly this is called sisya paramparawa.*
- 2. The “original proprietor” may make bequest common to all his five pupils. In that case all five succeed to the benefits of the Vihare, but one is elected to the superiority, and this office passes in succession to all of the five to whom the bequest has been made. The last survivor may therefore make a gift in favor of any other person.*
- 3. The “original proprietor”, instead of making a gift to a particular pupil, and thus starting a line of pupillary succession, or making a common bequest to all his pupils, may, if he likes, transfer his rights to any other person passing over his pupils.*
- 4. The “original proprietor” may, if he likes, do none of these things. He may elect to die intestate, without making any disposition of the temple and its lands. In that case (and here comes the important words): “the priests who happen to be assembled at his death become entitled in common.” The opinion adds these words: “things which belong equally to two priests devolve wholly to the survivor.”*

It was the submission of the learned President’s Counsel who represented the 2nd defendant that although Rev. Madakumbure Suseema was the founder Viharadhipathi of the questioned temple, it cannot be considered that the said priest was the original proprietor of the temple. This argument appears to be in order to counter the determination in **Gunananda Unnanse Vs.**

Dewarakkita Unnanse (supra) where it was held that, “the original proprietor has a right to transfer his rights to any other person passing over his pupils but no one else”. It was his position that admittedly Rev. Madakumbure Suseema was a pupil of Galpoththawala Suwineetha Thero of Sri Bodhirajaramaya, and the mentioned Valmeegoda Sudassi Thero was also a pupil of the earlier mentioned Suwineetha Thero. It was submitted that the evidence led in this case show that Madakumbure Suseema Thero established the temple in question with the help of his tutor namely, Suwineetha Thero, and his brother priest Rev. Valmeegoda Sudassi Thero and hence, it should be Galpoththawala Suwineetha Thero, being the tutor of Madakumbure Suseema Thero, that should be considered as the original proprietor of the temple, though Suseema Thero was the founder Viharadhipathi of the temple.

Accordingly, it was his position that Madakumbure Suseema Thero had no right to appoint the plaintiff who is a pupil of his brother scholar Rev. Sudassi over the head of his own pupil Rev. Sumanaransi. It was his position that after the demise of the founder Viharadhipathi, his only pupil Rev. Sumanaransi was appointed as the Viharadhipathi of the questioned temple, and after he abandoned the temple and disrobed, the pupillary succession should end and the temple reverts to the fraternity or chapter to which the said temple belongs, and it is the Mahanayake of the said chapter who has the right to appoint the Viharadhipathi of the said temple. It was his argument that therefore, the document marked P-08 has no validity and the plaintiff cannot succeed in this action.

The learned President’s Counsel who represented the plaintiff relied on the judgment in **Gunananda Unnanse Vs. Dewarakkita Unnanse (supra)** where it was submitted that “the original proprietor” mentioned in the judgment when considering the facts in relation to the matter under appeal should be Madakumbure Suseema Thero. It was submitted that it was he who has established the temple and the founder Viharadhipathi of the same. Maintaining the position that the original proprietor can bypass his pupil and transfer his rights to any other person, it was his position that the plaintiff

can claim the rights to the temple and the land based on the proven document P-08 where the original proprietor has passed his rights to the plaintiff.

The learned President's Counsel submitted the judgment in **Duwegama Indrajothi Sthavira and Others Vs. Paragastota Rewatha Sthavira (1988) 2 SLR 283** where **Dheeraratne J.**, reconsidered the above issue and held that, "The original proprietor of a temple has a right to appoint any monk passing over his pupils as Viharadhipathi upon the demise of the original proprietor".

Submitting as to the 2nd question of law raised, it was his position that the 2nd defendant cannot be considered as a pupil of Pathirajapedese Sumanaransi Thero since his higher ordination certificate marked P-14 has been made after Sumanaransi Thero disrobed and left sasana, and accordingly, pupillary succession has not started. It was his submission that the appellate judgment of the High Court of the Civil Appeal should therefore stand without disturbance, since it has been established that founder Viharadhipathi of the temple has transferred his rights to the plaintiff passing over his pupil.

Having considered the relevant facts and circumstances under which this appeal should be decided, and also the arguments placed before this Court by the learned President's Counsel in respect of their stance, I find that this is a matter where admitted and established facts should play a pivotal role in deciding the questions of law under which this appeal was considered. As I have considered before, there cannot be any doubt that Madakumbure Suseema Thero has written the letter marked P-08 transferring his rights to the temple in question to the plaintiff, which is a letter dated 29-05-1988. As I have considered earlier, the learned Judges of the High Court has got it totally wrong when it was determined that the said transfer was made only after the only pupil of Madakumbure Suseema, namely, Rev. Sumanaransi disrobed. However, the document marked P-10 which was a statement given to Karandeniya Police Station by earlier mentioned Sumanaransi Thero while being a layman on 14-12-2006, clearly established that the said Sumanaransi Thero has disrobed somewhere in the year 2002.

It is an admitted fact that after the demise of Suseema Thero, Rev. Sumanaransi became the Viharadhipathi of the temple. Although the plaintiff has claimed that after the demise of Rev. Suseema, Sumanaransi Thero was appointed to look after the affairs of the questioned temple under the guidance and supervision of him, I find no basis to agree with such a position as the evidence taken as a whole does not support such a contention. I find that even at the time of Suseema Thero, it was his pupil Sumanaransi Thero who has been functioning as the Viharadhikari of the temple, and the said Rev. Sumanaransi has been duly appointed as the Viharadhipathi of the said temple 8 months after Rev. Suseema's demise.

It is abundantly clear that although the plaintiff may have had the document marked P-08 under which he could have claimed the Viharadhipathiship of the temple over the pupil of Suseema Thero, he has not claimed the Viharadhipathiship as such, which is the reason why the relevant authority who is vested with the right of nominating the Viharadhipathi of the temple has decided to appoint Rev. Sumanaransi as the succeeding Viharadhipathi of Rev. Suseema. If Rev. Sumanaransi was only appointed under the guidance and supervision of the plaintiff as claimed by him, in my view, there should be some documentation to substantiate such a position, where there had been none produced at the trial. In my view, the plaintiff should have claimed the Viharadhipathiship of the temple based on the document marked P-08 when the question of Viharadhipathiship arose for a determination after the demise of the founder Viharadhipathi of the temple. The plaintiff has filed this action before the District Court in the year 2005, several years after the appointment of Rev Sumanaransi as the Viharadhipathi of the temple, and also several years after Rev. Sumanaransi disrobed and abandoned the temple. It is clear from the evidence that it was the 1st and 2nd defendants who had been residing in the temple at the time Rev. Sumanaransi disrobed.

It is my considered view that the plaintiff has by his own conduct failed to claim the Viharadhipathiship at the proper time he should have claimed it, and now estopped from claiming the same on the strength of the document marked P-08.

At this juncture, I would like to quote from the judgment of the **Dheeraratne J**, in **Duwegama Indrajothi Sthavira and Others Vs. Paragastota Rewatha Sthavira (supra) at page 292** where it was observed,

“I am of the view that any interpretation of the Buddhist Ecclesiastical Law by Court, should be conducive to ensure stability, and continuity of the numerous Buddhist places of worship in the country. Perhaps I can find traces of the same view expressed in the words of Jayewardene A.J in the very case of Gunananda Unnanse Vs. Dewarakkita Unnanse (supra).”

Having considered and determined the 1st question of law under which leave to appeal was granted, I will now focus my attention to the 2nd question of law to consider a situation where the pupillary line ends.

In the appeal under consideration since the 2nd defendant has now abandoned his claim to the Viharadhipathiship as a pupil of Sumanaransi Thero, the question that needs determination is whether succession based on sisyanusisya paramparawa has come to an end, and if so, who is entitled to appoint an incumbent to the questioned temple. There is no dispute that Rev. Sumanaransi who was appointed as the Viharadhipathi of the temple has disrobed and had abandoned the temple thereafter. Since there is no claim under sisyanusisya paramparawa, the only conclusion that can be reached is the line of pupillary succession has become extinct.

In the case of **U. Dhammaloka Thero Vs. P. Saranapala Thero 57 NLR 518** it was held,

“Upon the extinction of the line of pupillary succession to a Buddhist temple governed by the rule of succession known as sisyanusisya paramparawa, the temple vests in the Sangha and the right of appointing a new Viharadhipathi vests in the Mahanayake of the fraternity which has jurisdiction over it. The fact that a stranger has functioned as Viharadhipathi for a long period does not entitle him to defeat the Mahanayake’s right of appointment, which is a right that cannot be lost by prescription.”

In the case **Dammaratna Unnanse Vs. Sumangala Unnanse (1910) 14 NLR 400** it was held,

“If succession to a vihare in “sisyanusisya paramparawa” fails, the Chapter of the college to which it belongs have the right to appoint, although in the case of small viharas the Maha Nayaka may act alone in the faith of future support from the Chapter, and even in districts the local Nayaka Unnanses have been known to appoint.”

Even though it is not relevant for the purpose of this appeal, even in a situation where an incumbent Viharadhipathi dies without leaving a pupil, the rule of succession is the same.

In the case of **Attadassi Unnanse Vs. Indajothi Unnanse (1956) 59 NLR 79** it was observed that,

“When the incumbent of a Vihare to which the rule of Sisyanusisya Paramparawa dies without leaving a pupil, the line of pupillary succession becomes extinct, and the right of appointing his successor is vested in the Sangha. It cannot be contended that the chain of pupillary succession includes not only the descending line but also, when the descending line becomes extinct, the ascending line.”

The above line of authority clearly demonstrates that in the instant case, since the pupillary line of succession has become extinct with the disrobing of Rev. Sumanaransi, it is the chapter of the college to which the vihare belongs have the right to appoint a Viharadhipathi or Viharadhikari as the case may be.

For the reasons as considered above, I answer the questions of law under which this appeal was considered in the following manner,

1. If the founding Viharadhipathi is also the original proprietor of the temple, he can transfer his rights to any other person passing over his pupils. However, the plaintiff is not entitled to claim the Viharadhipathiship based on the document marked P-08 for the reasons considered in this judgment as he is estopped from claiming any benefit out of the document marked P-08.

2. As considered in this judgment, the pupillary line of succession has come to an end, therefore, the right of appointing a Viharadhipathi vests in the Sangha.

Accordingly, I find that the judgment dated 02-01-2021 pronounced by the Provincial High Court of the Southern Province holden in Galle cannot be allowed to stand.

Hence, the said judgment is hereby set aside. For the reasons considered in this judgment, I affirm the dismissal of the plaintiff's action by the learned District Judge of Balapitiya.

Having considered the relevant facts and the circumstances, I order no costs.

Judge of the Supreme Court

Mahinda Samayawardhena, J.

I agree.

Judge of the Supreme Court

Arjuna Obeyesekere, J.

I agree.

Judge of the Supreme Court